

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

VAN A. LUPO,

Plaintiff

v.

BANKAMERICA CORPORATION,

RECEIPT # 204421 Defendant

AMOUNT \$ 157.00

SUMMONS ISSUED ☒

LOCAL RULE 4.1 ☒

WAIVER FORM ☒

MCF ISSUED ☒

BY DPTY. CLK. ☒

DATE 10/7/04

C.A. Number

04-40202

Introduction

1. Plaintiff /Consumer, Van A. Lupo, brings this action for compensatory, exemplary, and punitive damages against Defendant pursuant to Defendant's violations of the Consumer Credit Protection Act, 15 U.S.C. §1601 *et seq* (hereinafter, "CCPA"); the Massachusetts Consumer Credit Disclosure statutes, M.G.L. c. 140D *et seq* (hereinafter, "Credit Disclosure Statutes"); the Division of Banks and Loans Regulatory Code promulgated by the commissioner of Banking for the Commonwealth of Massachusetts, 209 CMR 32.00 *et seq* (hereinafter, "Disclosure Regulations"); and Massachusetts Consumer Protection Act, M.G.L. C 93A (hereinafter, "Ch. 93A") due to
 - a. Defendant's blatant, unfair, and deceptive refusal to disclose credit card information, namely the signature page of the application, requested by Plaintiff;
 - b. Failure to remove reported negative credit history from the three major credit reporting companies' public records;
 - c. And refusal to meet its burden of proof to show that the credit use was authorized.

Plaintiff also asserts common law claims for relief against said Defendant.

Jurisdiction and Venue

2. This Court's Jurisdiction arises under 15 U.S.C. §1601(d) and 28 U.S.C. §1331. This Court has Supplemental Jurisdiction to hear and adjudicate Plaintiff's claims arising under state law pursuant to 28 U.S.C. §1367.
3. Venue is proper in this District pursuant to 28 U.S.C. §1391(c).

Parties

4. Plaintiff Van A. Lupo is a natural person and individual who resides in Hopedale, Massachusetts, Worcester County.
5. Defendant BankAmerica Corporation is a Corporation incorporated in the State of Delaware. At all times relevant to this Complaint it was engaged and still is engaged in substantial business in the Commonwealth of Massachusetts.

Factual Allegations

6. A person reputing to be with BankAmerica Corporation and claiming that Mr. Lupo had an outstanding balance with BankAmerica from a credit card issued in September of 1992 called plaintiff Van A. Lupo on his cellular phone in the fall of 2003. Up until that point, Mr. Lupo was never aware of any credit card, never mind a balance, with BankAmerica Corporation.
7. Mr. Lupo informed that person that he was divorced and that his ex-wife was responsible for much of the credit card debt, and perhaps BankAmerica Corporation should be calling her. The BankAmerica Corporation representative noted that the credit card was allegedly a joint account.
8. Mr. Lupo requested that he be sent an original copy of the signature page of the credit card application to verify that it was indeed his signature. No such signature page was forthcoming.

9. In December of 2003 Mr. Lupo requested a credit report from Trans Union and received said credit report.
10. Mr. Lupo noticed that BankAmerica Corporation had reported this account to Trans Union as “charged off as bad debt” (attached hereto as Exhibit A)
11. Mr. Lupo disputed the report from BankAmerica Corporation to Trans Union, and in February of 2004, Trans Union reported back to Mr. Lupo that the BankAmerica Corporation report was “verified” (attached hereto as Exhibit B).
12. When Mr. Lupo learned that BankAmerica Corporation was continuing to report the credit card balance on his credit report, he attempted to call BankAmerica Corporation to resolve this matter.
13. At that time, Mr. Lupo was informed that an Attorney Eskoner, a professional debt collector, was handling the BankAmerica Corporation account.
14. Mr. Lupo spent the next few weeks attempting to contact Attorney Eskoner, and finally learned that Attorney Eskoner’s firm had closed the account and returned it to BankAmerica Corporation on March 22, 2004.
15. Mr. Lupo then retained counsel. On May 27, 2004, present counsel, called BankAmerica Corporation’s credit card department and spoke with a Ms. Laura Taffea [sic]. Ms Taffea [sic] told present counsel to send a formal letter of dispute to BankAmerica Corporation’s Credit Dispute Bureau.
16. On May 27, 2004, present counsel sent a letter, via facsimile and certified mail to BankAmerica Corporation Credit Dispute Bureau requesting that they produce the signature card. (Attached hereto as Exhibit C).

17. As of July 23, 2004 BankAmerica Corporation is still reporting this credit card debt as "charged off" (Experian credit report attached hereto as Exhibit D).
18. As of this date, BankAmerica Corporation has failed to produce the signature card or acknowledge the letter.

COUNT I

VIOLATIONS OF THE FEDERAL CONSUMER CREDIT PROTECTION ACT

15 U.S.C. §1601, et seq

19. The allegations of paragraphs 1-18 are realleged and incorporated herein as if fully set forth.
20. At all times relevant to this complaint Plaintiff was a “consumer” within the meaning of 15 U.S.C. §1602(h).
21. The credit at issue here constitutes “credit” within the meaning of 15 U.S.C. §1602(e) and the debt was incurred as a result of credit used on a “credit card” within the meaning of 15 U.S.C. § 1602(k).
22. At all times relevant to this complaint Defendant was a “creditor” within the meaning of 15 U.S.C. §1602(f), to wit, it regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, and
23. Defendant violated the Consumer Credit Protection Act in the following respects:
 - (a) Defendant violated 15 U.S.C. §1637 by refusing, despite numerous requests by the Plaintiff, to disclose the relevant information, such as the signature page of the application, of the credit card at issue in the present case;
 - (b) Defendant violated 15 U.S.C. §1642 by issuing a credit card in the Plaintiff’s name without being in response to a request or application from the Plaintiff;
 - (c) Defendant violated 15 U.S.C. §1643 by shifting the burden of proof to the Plaintiff to prove to the Defendant and the three major credit reporting agencies, that he was not liable for the use of the credit card;

(d) Defendant is in violation of 15 U.S.C. §1611 because it willfully and knowingly failed to provide information which it is required to disclose under the provisions of the federal Consumer Credit Protection Act.

24. WHEREFORE, the Defendant is liable to Plaintiff for the cost of this action, together with reasonable attorney's fees.

COUNT II

VIOLATIONS OF THE MASSACHUSETTS CONSUMER CREDIT DISCLOSURE ACT

M. G. L. c. 140D et seq

25. The allegations of paragraph 1-24 are realleged and incorporated as if fully set forth herein.
26. Defendant is a "Creditor" within the meaning of M.G.L. c. 140D §1
27. Defendant has engaged in the following conduct in violation of the Massachusetts Consumer Credit Disclosure Act:
- (a) Defendant violated M.G.L. c. 140D §11 by refusing, despite numerous requests by the Plaintiff, to disclose the relevant information, such as the signature page of the application, of the credit card at issue in the present case;
 - (b) Defendant violated M.G.L. c. 140D §25 by issuing a credit card in the Plaintiff's name without being in response to a request or application from the Plaintiff;
 - (c) Defendant violated M.G.L. c. 140D §26 by shifting the burden of proof to the Plaintiff to prove to the Defendant and the three major credit reporting agencies, that he was not liable for the use of the credit card;
 - (d) Defendant is in violation of M.G.L. c. 140D §31 because it willfully and knowingly failed to provide information that it is required to disclose under the provisions of the Massachusetts Consumer Credit Disclosure Act.
28. WHEREFORE, the Defendant is liable to Plaintiff for the cost of this action, together with reasonable attorney's fees.

COUNT III

VIOLATION OF DIVISION OF BANKS AND LOANS REGULATORY CODE

209 C.M.R. §32.00, et seq

29. The allegations of paragraph 1-28 are realleged and incorporated as if fully set forth herein.
30. Defendant has engaged in the following conduct in violation of the Division of Banks and Loan Agencies Rule, to wit, Defendant violated 209 CMR §32.05A by refusing, despite numerous requests by the Plaintiff, to disclose the relevant information, such as the signature page of the application, of the credit card at issue in the present case;
31. In addition, Defendant violated 209 CMR §32.05A(5)(d) by failing to promptly and fully disclose the information requested by the Plaintiff.
32. WHEREFORE, the Defendant is liable to Plaintiff for the cost of this action, together with reasonable attorney's fees.

COUNT IV

VIOLATION OF MASSACHUSETTS CONSUMER PROTECTION ACT

M.G.L. c. 93A

33. The allegations of paragraph 1-32 are realleged and incorporated as if fully set forth herein.
34. The acts and practices of BankAmerica Corporation, in failing to disclose to Mr. Lupo the information he requested on his alleged credit card use, constitutes an unfair or deceptive act or practice pursuant to Massachusetts General Laws Chapter 93A, §§ 2 and 9.
35. The actions of the defendant described above were performed willfully and knowingly.
36. As a result of the unfair or deceptive acts or practices of the Defendant, the Plaintiff has lost the ability to apply for and receive credit, and has sustained financial burdens in pursuing the relief requested.
37. In May 2004, the Plaintiff, through his attorney, sent to the defendant by certified mail, postage prepaid, a written demand for relief pursuant to M.G.L. c. 93A, § 9, identifying the claimants and reasonably describing the unfair acts or practices relied on and the injuries suffered. A copy of this letter is attached hereto as Exhibit C.
38. As of the date of this Complaint, the Defendant has failed to respond to the letter in any form or manner.
39. WHEREFORE, the Defendant is liable to Plaintiff for damages and the cost of this suit, including reasonable attorney's fees.

COUNT IV

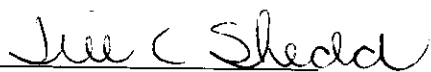
LIBEL

40. The allegations of paragraph 1-39 are realleged and incorporated as if fully set forth herein.
41. To prove libel, first there must be a statement, in writing or a similarly permanent form, which has the effect of harming the Plaintiff's reputation in the community. By reporting negative credit to the three major credit reporting company, and by knowing that that information would be disseminated to anyone requesting credit information on the Plaintiff, the Defendant made a written statement that had the effect of harming the Plaintiff's reputation.
42. Second, the defamatory statement must also be false and untrue and the Defendant has the burden of proving the truth of the statement as an affirmative defense. The Plaintiff claims that he did not knowingly and willingly sign the signature page on the credit application with the Defendant. The Defendant, despite numerous requests, has failed to produce such proof. Thus the statement to the credit reporting agencies is false and untrue.
43. Third, there must be a publication of the defamatory matter, meaning that at least one person other than the parties to an action for defamation must have been exposed to the defamatory material. By continuously reporting the libelous credit history to the major credit reporting agencies, and hence to all others who request a credit history of the Plaintiff, there has been publication of the defamatory matter.
44. WHEREFORE, the Defendant is liable to Plaintiff for damages, interest, plus costs of suit, including reasonable attorney's fees.

DEMANDS

45. Plaintiff demands Trial by Jury on each Claim herein.
46. Plaintiff demands that the Defendant be ordered to remove the negative credit history from all credit reporting agencies and any other public record.
47. Plaintiff demands any other relief, including punitive damages, that this Honorable court deems just and equitable.

Respectfully Submitted,
Van A. Lupo
By His Counsel


Jill C. Shedd
652488

Law Office of Jill Shedd & Associates, P.C.
430 Franklin Village Drive
#212
Franklin, MA. 02038
508-720-9267

DATED: 10//5/04

EXHIBIT A

Case 4:04-cv-40202-FDS
*** 123574225-001 ***
P.O. BOX 2000
CHESTER, PA 19022

Document 1

Filed 10/07/2004 Page 13 of 26

YOUR TRANS UNION FILE NUMBER: 123574225
PAGE 1 OF 9
DATE THIS REPORT PRINTED: 12/19/2003

RETURN SERVICE REQUESTED

SOCIAL SECURITY NUMBER: [REDACTED]
BIRTH DATE: 07/1957
YOU HAVE BEEN IN OUR FILES SINCE: 07/1977
PHONE: 479-3707

CONSUMER REPORT FOR:

LUPO, VAN, ANTHONY
61 NECK HILL RD
HOPEDALE, MA 01747

FORMER ADDRESSES REPORTED:

57 BLACKSTONE ST, BELLINGHAM, MA 02019
1181 PACIFIC COVE LN, HUNTINGTON BEACH, CA 92648

EMPLOYMENT DATA REPORTED:

VENTRICOM INC
DATE REPORTED: 12/2000

PHOENIX TECHNOLO
DATE REPORTED: 02/1995

JANSEN ASSC
DATE REPORTED: 12/1982

YOUR CREDIT INFORMATION

THE FOLLOWING ACCOUNTS CONTAIN INFORMATION WHICH SOME CREDITORS MAY CONSIDER 1
BE ADVERSE. ADVERSE ACCOUNT INFORMATION MAY GENERALLY BE REPORTED FOR 7 YEARS
FROM THE DATE OF THE FIRST DELINQUENCY, DEPENDING ON YOUR STATE OF RESIDENCE.
THE ADVERSE INFORMATION IN THESE ACCOUNTS HAS BEEN PRINTED IN >BRACKETS< FOR
YOUR CONVENIENCE, TO HELP YOU UNDERSTAND YOUR REPORT. THEY ARE NOT BRACKETED
THIS WAY FOR CREDITORS. (NOTE: THE ACCOUNT # MAY BE SCRAMBLED BY THE CREDITOR
FOR YOUR PROTECTION).

BANK OF AMERICA NA # 4427100001870265 REVOLVING ACCOUNT
ACCOUNT CLOSED BY CONSUMER CREDIT CARD
UPDATED 11/2003 BALANCE: \$13610 JOINT ACCOUNT
OPENED 09/1992 MOST OWED: \$6599 CREDIT LIMIT: \$7100
CLOSED 01/2001 >PAST DUE: \$13411<
>STATUS AS OF 01/2001: CHARGED OFF AS BAD DEBT<

MECHANICAL FINANCIAL NET # 431193077 MORTGAGE ACCOUNT
CLOSED CONVENTIONAL REAL ESTATE MTG
UPDATED 12/2001 BALANCE: \$0 INDIVIDUAL ACCOUNT
OPENED 01/1999 MOST OWED: \$319200 PAY TERMS: 360 MONTHLY \$2540
CLOSED 12/2001
>STATUS AS OF 12/2001: 30 DAYS PAST DUE<
>IN PRIOR 30 MONTHS FROM DATE CLOSED 1 TIME 30 DAYS LATE<

EXHIBIT B

*** 123574225-004 ***
 P.O. Box 2000
 Chester, PA 19022

YOUR TRANS UNION FILE NUMBER: 123574225
 PAGE 1 OF 9
 DATE THIS REPORT PRINTED: 02/26/2004

RETURN SERVICE REQUESTED

SOCIAL SECURITY NUMBER: [REDACTED]
 BIRTH DATE: 07/1957
 YOU HAVE BEEN IN OUR FILES SINCE: 07/1977
 PHONE: 479-3707

CONSUMER REPORT FOR:

32 00000006 0001 C692VW1

LUPO, VAN, ANTHONY
 61 NECK HILL RD
 HOPEDALE, MA 01747

FORMER ADDRESSES REPORTED:

1181 PACIFIC COVE LN, HUNTINGTON BEACH, CA 92648
 430 FRANKLIN VILL DR 212, FRANKLIN, MA 02038

EMPLOYMENT DATA REPORTED:

DEPT OF PUBLIC HEALTH
 DATE REPORTED: 02/2004

VENTRICOM INC
 DATE REPORTED: 12/2000

PHOENIX TECHNOLO
 DATE REPORTED: 02/1995

JANSEN ASSC
 DATE REPORTED: 12/1982

INVESTIGATION RESULTS

WE HAVE COMPLETED OUR REINVESTIGATION AND THE RESULTS ARE SHOWN BELOW.

ITEM	DESCRIPTION	RESULTS
BANK OF AMERICA NA	# 4427100001870265	VERIFIED, NO CHANGE
DAIMLERCHRYLER SRV NTO	# 1100514170219001	VERIFIED, NO CHANGE
DAIMLERCHRYLER SRV NTO	# 1100107380219001	NEW INFORMATION BELOW
HOUSEHOLD FINANCE	# 216601000952338	VERIFIED, NO CHANGE
HOMEcomings FINANCIAL NE	# 80200589961911001	NEW INFORMATION BELOW
NORDSTROM FSB	# 84143061	DELETED
HOUSEHOLD FINANCE	# 710001135429	NEW INFORMATION BELOW
FIRST USA BANK NA	# 4246152013772095	DELETED
WELLS FARGO BANK	# 6251900917232092	DELETED
LIMITED EXPRESS	# 314333782	DELETED

EXHIBIT C

Law Office of Jill Shedd & Associates, P.C.

Counselors at Law

May 27, 2004

Credit Bureau Disputes
VA6-300-08-09
PO Box 1598
Norfolk, VA. 23501

VIA FACSIMILE AND CERTIFIED MAIL

RE: Van Lupo

To whom it may concern:

I have been retained by Mr. Lupo to investigate a Bank of America charge card that showed up on December, 2003 credit reports from the three main credit reporting agencies. As you should be aware under 15 U.S.C. §1643 and under M.G.L. ch.140D §26 a cardholder is only liable for the unauthorized use of a credit card up to fifty (\$50.00) dollars. In addition, these laws further state that "in any action by a card issuer to enforce liability for the use of a credit card, the burden of proof is upon the card issuer to show that the use was authorized ...". Mr. Lupo contends that he did not authorize the issuance of this card and requests proof that he signed said card application via the signature card you should have on record.

Here is the pertinent information that should assist you in obtaining the needed information:

Name: Van Anthony Lupo
SSN: 557-94-2880
Address:
61 Neck Hill Road
Hopedale, MA. 01747
Phone Number:
508-453-0056
Alleged Account Number:
442710000001870265

430 Franklin Village Drive
#212
Franklin, MA. 02038

508-720-9267 phone
508-473-3817 fax

info@sheddllaw.com
www.sheddllaw.com

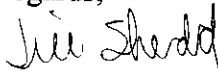
929 Massachusetts Avenue
Level 01
Cambridge, MA. 02139

617-576-5500 phone
617-868-2520 fax

I would appreciate a quick response as this "charge off as bad debt" rating on his credit card is hurting his ability to apply for credit. I would also appreciate that you correspond with me on this matter at my Franklin, MA address which is:

430 Franklin Village Drive
#212
Franklin, MA. 02038
508-720-9267
508-574-3817 (fax)
jshedd@sheddllaw.com

Regards,



Jill Shedd

mlc/JCS

Cc: Van Lupo

Enc: Copy of credit report

LAW OFFICE OF JILL SHEDD & ASSOCIATES,
COUNSELORS AT LAW

FACSIMILE TRANSMITTAL SHEET

TO:	Credit Disputes Bureau	FROM:	Jill Shedd
COMPANY:	BankAmerica	DATE:	5/27/2004
FAX NUMBER:	757-677-4877 4877	TOTAL NO. OF PAGES INCLUDING COVER:	4
PHONE NUMBER:	800 732 9194	SENDER'S REFERENCE NUMBER:	
RE:	Proof of signature	YOUR REFERENCE NUMBER:	CONS-LUP001

☐ URGENT
 ☐ FOR REVIEW
 ☐ PLEASE COMMENT
 ☐ PLEASE REPLY
 ☐ PLI

NOTES/COMMENTS:

110 FRANKLIN VILLAGE DRIVE #212
 FRANKLIN, MA 02045
 508-520-9260 PHONE
 508-473-3517 FAX

929 MASSACHUSETTS AVENUE
 CAMBRIDGE
 617 552-6171

INFO@SHEDDLAW.COM
 WWW.SHEDDLAW.COM

hp officejet d135
printer/fax/scanner/copier

Fax-History Report for
Jill Shedd
1-508-966-2420
May 27 2004 4:23pm

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
May 27	4:22pm	Fax Sent	17576774874	1:08	4	OK

2003 1680 0002 4484 2

U.S. Postal Service
CERTIFIED MAIL... RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

Postage \$ 2.50 UNIT ID: 0419
 Certified Fee \$ 0.50
 Return Receipt Fee \$ 0.00
 Restricted Delivery Fee \$ 0.00
 Total Postage & Fees \$ 3.00

Postmark
 Date: 05/28/04


Sent To: Bank America, VA 6-360-08-09
 Street, Apt. No., or PO Box No: PO Box 1598
 City, State, ZIP+4: Norfolk, VA 23501

PS Form 3800, June 2002 See Reverse for instructions

EXHIBIT D

Printable report

Page 1 of 25

Experian Close windowReport Number:
3171077726Online Personal Credit Report from
Experian for VAN ANTHONY LUPO

Report Date: July 23, 2004

Index:

- Potentially negative items
- Accounts in good standing
- Requests for your credit history
- Personal information
- Important message from Experian
- Contact us

 **Print report**

Experian collects and organizes information about you and your credit history from public records, your creditors and other reliable sources. Experian makes your credit history available to your current and prospective creditors, employers and others as allowed by law, which can expedite your ability to obtain credit and can make offers of credit available to you. We do not grant or deny credit; each credit grantor makes that decision based on its own guidelines.

Potentially Negative Items[back to top](#)**Credit Items**

For your protection, the last few digits of your account numbers do not display.

BANK OF AMERICA

1825 E BUCKEYE RD
PHOENIX, AZ 85034

Account Number: 442710000187...

Current Account charged off/Past due 150 days. \$8,001
written off. \$14,809 past due as of 6-2004.

Account opened:	Type:	Credit Limit/Original
09/1992	Revolving	Amount:
Account closed:	Terms:	\$7,100
05/1994	NA	Max Finance:
Account balance:	Monthly Payment:	\$15,029
01/2001	\$0	Recent Payment:
Days Delinquent:	Responsibility:	\$15,029 as of 06/2004
06/2004	Joint with SHERYL L LUPO	Recent Payment:
		\$0

Account closed at consumer's request

Charge Off as of 6-2004, 5-2004, 4-2004, 3-2004, 2-2004,
1-2004, 12-2003, 11-2003, 10-2003, 9-2003, 8-2003, 7-

Printable report

Page 2 of 25

2003, 6-2003, 5-2003, 4-2003, 3-2003, 1-2003, 12-2002,
 10-2002, 9-2002, 8-2002, 7-2002, 5-2002, 4-2002, 3-2002,
 1-2002, 12-2001, 11-2001, 10-2001, 8-2001, 7-2001, 6-
 2001, 5-2001, 4-2001, 3-2001, 1-2001
 150 days as of 12-2000
 120 days as of 11-2000
 90 days as of 10-2000
 60 days as of 9-2000
 30 days as of 8-2000

Current balance

\$14,814 05/2004

\$14,608 04/2004

\$14,399 03/2004

\$14,206 02/2004

\$14,002 01/2004

\$13,802 12/2003

\$13,610 11/2003

\$13,415 10/2003

\$13,229 09/2003

\$13,040 08/2003

\$12,853 07/2003

\$12,675 06/2003

\$12,491 05/2003

\$12,315 04/2003

\$12,136 03/2003

\$11,976 03/2003

\$11,802 01/2003

\$11,631 12/2002

\$11,468 12/2002

\$11,291 10/2002

\$11,128 09/2002

\$10,961 08/2002

\$10,803 07/2002

Between 7-2002 and 5-2004, your credit limit/high balance
 was \$7,100

CHEVRON U S A

Account type

PO BOX 5010

CONCORD, CA 94524

Account number

725034....

Account Collection account/Never late. \$363 past due as of
 5-2004.

Account opened

06/1988

Account Street

04/1994

Account

Revolving

Term

1 Months

Current balance/limit

\$14,814

\$467

High balance

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Van A. Lupo v. Bank of America
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
- YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
- YES ☐ NO ☒
- If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
- YES ☐ NO ☒
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
- YES ☐ NO ☐
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
- YES ☐ NO ☒
- A. If yes, in which division do all of the non-governmental parties reside?
- Eastern Division ☐ Central Division ☐ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
- Eastern Division ☐ Central Division ☒ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
- YES ☐ NO ☐
- (PLEASE TYPE OR PRINT)
- ATTORNEY'S NAME Jill Shedd
- ADDRESS 430 Franklin Village Drive #212 Franklin, MA 02038
- TELEPHONE NO. 508-720-9267

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Van A. Lupo

(b) County of Residence of First Listed Plaintiff Worcester
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Jill C. Shedd
430 Franklin Village Drive #212
Franklin, MA. 02038

DEFENDANTS

Bank of America

County of Residence of First Listed
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

04-40202

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF
- Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4 DEF
- Citizen of Another State ☐ 2 ☐ 2
- Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405 (g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input checked="" type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 U.S.C. § 1640 et seq. - Violation of Federal Consumer Credit Protection Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

9/29/04

SIGNATURE OF ATTORNEY OF RECORD

Jill C. Shedd

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE